IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

MACA.No. 984 of 2007()

OPMV.3611/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

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APPELLANT/PETITIONER

T.A.GIREESH, S/O ARUMUGHAN, AGED 37 YEARS, THEKKE ANAPPURAM CHALIL HOUSE, NEELESWARAM POST, KODUVALLY-VIA, KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: RESPONDENTS

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1. JOJITHKUMAR, S/O NARAYANAN, PARAKKANDI THAZHAM HOUSE, KARAPARAMBA POST, KOZHIKODE.(OWNER OF THE AUTHORIKSHAW NO. KL-11/H-1227)

2. THE UNITED INDIA INSURANCE COMPANY LTD., DIVISIONAL OFFICE, SEEMA BUILDING, MAVOOR ROAD, KOZHIKODE(INSURER OF THE AUTHORIKSHAW NO. KL-11/H-1227)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.A.C.A. NO. 984 OF 2007

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Dated this the 29th day of June, 2007

J U D G M E N T

Claimant is the appellant. The appellant was travelling in an Autorikshaw bearing Reg. No.KL-11/H-1227 from Mavoor Road to KSRTC Bus Stand. On the way it capsized and appellant sustained injuries. After analysing the evidence, the Tribunal found that the appellant was not a passenger, but the driver of the Autorikshaw itself. Tribunal found that a person who is primarily responsible for the accident is not entitled to get compensation from the Insurer. The finding of the Tribunal is correct. Hence there is no merit in the appeal and the same is only to be dismissed.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A.

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J U D G M E N T

29TH JUNE, 2007